

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

PHIPA DECISION 292

Complaint HA25-00029

Dr. Niall O'sullivan

July 29, 2025

Summary: On October 7, 2024, the complainant asked their doctor for access to their personal health information. The complainant submitted a complaint because the doctor failed to respond to the request within the prescribed time limit. The decision-maker finds that the doctor is deemed to have refused the complainant's access request under section 54(7) of the *Act* and orders the doctor to respond to the complainant's access request.

Statutes Considered: *Personal Health Information Protection Act, 2004*, as amended, sections 54(2) and 54(7).

BACKGROUND:

[1] On October 7, 2024, the complainant asked their doctor Dr. Niall O'Sullivan (the doctor) for access under the *Personal Health Information Protection Act, 2004* (the *Act*) to their medical records.

[2] On January 31, 2025, the complainant submitted a complaint to the Information and Privacy Commissioner of Ontario (IPC) because the doctor failed to respond to their access request within 30 days. The IPC opened HA25-00029 for this matter.

[3] The doctor is retired; however, the website of the College of Physicians and Surgeons of Ontario (CPSO) provides an email address for former patients wishing to receive their medical information from the doctor.

[4] On May 22, 2025, I emailed the doctor using the address on the website of the CPSO to discuss this complaint and determine if the records had been released. No response was received.

[5] On June 3, 2025, I again emailed the doctor advising that if I did not hear back by June 10, 2025, I would proceed to a formal expedited review of this matter. To date, I have not heard back from the doctor.

[6] On June 25, 2025, I issued a Notice of Expedited Review, encouraging the doctor to respond to the complainant's access request by July 9, 2025.

[7] A response was not received by July 9, 2025. As of today, no response has been provided by the doctor to the complainant's access request.

[8] Considering the above and to ensure that there are no further delays in processing this request, I will order the doctor to respond to the complainant's access request in accordance with the *Act*.

DISCUSSION:

Preliminary Issues:

[9] Based on the information before me in this complaint, I am satisfied that:

- the requested records contain "personal health information", as defined in sections 2 and 4 of the *Act*; and
- the doctor is a *health care practitioner* within the meaning of section 2 of the *Act*¹ and therefore, is a *health information custodian* within the meaning of section 3(1) of the *Act*².

Issue: Is the doctor in a deemed refusal situation pursuant to section 54(7) of the *Act*?

[10] Under section 54(8) of the *Act*, if a health information custodian refuses or is deemed to have refused an access request, the burden of proof in respect of the refusal lies on the health information custodian.

[11] Section 54(2) of the *Act* outlines the time parameters for a custodian to respond to an access request:

¹ *Health care practitioner* is defined as "a person who is a member within the meaning of the Regulated Health Professions Act, 1991 and who provides health care".

² *Health information custodian* is defined as a health care practitioner.

(2) Subject to subsection (3), the health information custodian shall give the response required by clause (1) (a), (b), (c) or (d) as soon as possible in the circumstances but no later than 30 days after receiving the request.

[12] Section 54(7) of the *Act* outlines the circumstances that give rise to a deemed refusal:

(7) If the health information custodian does not respond to the request within the time limit or before the extension, if any, expires, the custodian shall be deemed to have refused the individual's request for access.

[13] As of today, the doctor has not responded to the complainant's access request despite the filing of a complaint with the IPC, and my decision to conduct an expedited review and issue of a Notice of Expedited Review, encouraging him to do so by July 9, 2025.

[14] Therefore, I find the doctor to be in a deemed refusal situation under section 57(4) of the *Act*.

[15] To ensure that there are no further delays, I will order the doctor to respond to the complainant's access request in accordance with the *Act*.

ORDER:

Pursuant to section 61(1) of the *Act*:

1. I order the doctor to respond to the complainant's access request in accordance with the *Act* and without recourse to a time extension, by **August 13, 2025**.
2. To verify compliance, the doctor shall provide me by email with a copy of the response referred to in provision 1 by **August 13, 2025**.

Original Signed by: _____
Kelley Sherwood
Case Lead

July 29, 2025 _____